

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA  
04-CV-4486 (JMR/FLN)

2005 SEP -1 A 11:44

U.S. DISTRICT COURT  
DISTRICT OF MASS.

AGA Medical Corp.

v.

Nitinol Medical Tech., Inc.,  
and Dr. Lloyd Marks

ORDER

MAGISTRATE JUDGE

*Collins*

This matter is before the Court on defendants' motion to transfer venue pursuant to 28 U.S.C. § 1404(a). The Court heard oral argument on May 27, 2005.

Based on the files, records, and proceedings herein, and for the reasons stated at the hearing, IT IS ORDERED that:

1. Defendants' motion [Docket No. 9] is granted.
2. This case is transferred to the District of Massachusetts.

Dated: June 1st, 2005

s/James M. Rosenbaum  
JAMES M. ROSENBAUM  
United States Chief District Judge

A true printed copy in 1 sheet(s)  
of the electronic record filed on 9/1/05  
in the United States District Court  
for the District of Minnesota.  
CERTIFIED, 8-25, 2005.  
BY: RICHARD D. SLETEN  
*Richard D. Sletten*  
Deputy Clerk

## UNITED STATES DISTRICT COURT

## District of Minnesota

## RESPOND TO:

U.S. District Court, 700 Federal Building, 316 N. Robert St., St. Paul, MN 55101

☒ U.S. District Court, 202 U. S. Courthouse, 300 S. Fourth St., Minneapolis., MN 55415

U.S. District Court, 417 Federal Building, 515 W. First St., Duluth, MN 55802

Phone (651) 848-1100

Phone (612) 664-5000

Phone (218) 529-3500

FILED  
CLERKS OFFICE

2005 SEP - 1 A 11:44

U.S. DISTRICT COURT  
DISTRICT OF MASS

<b>DATE:</b> 8/25/05		<b>CIVIL FILE NUMBER:</b> 04-cv-4486 JMR/FLN
<b>CASE TITLE:</b> AGA Medical Corporation v. Nitinol Medical Technologies Inc. et al		
The above entitled action was: <input type="checkbox"/> removed from county court, <input type="checkbox"/> transferred from another district, and filed in <input type="checkbox"/> Minneapolis <input type="checkbox"/> St. Paul <input type="checkbox"/> Duluth, on _____, and assigned to Judge _____ and to Magistrate _____. Please direct future filings to the office indicated at the top of this form.		
The above entitled action was filed in this court on _____, and assigned to Judge _____ and referred to Magistrate Judge _____. The file will be maintained at the Clerk's office in the District of Minnesota in _____. Please note for future reference. cc to: _____		
Discovery documents are returned pursuant to Federal Rule of Civil Procedure 5(d).		
A certified copy of the Order of Remand is enclosed.		
The above entitled action is being transferred to your court pursuant to Order of _____ filed on _____. A certified copy of the order and docket entries are included, along with the original court file. Please acknowledge receipt of this file by returning a date-stamped copy of this notice indicating the filing date and civil case number assigned in your court.		
A Bill of Costs is to be submitted on Form AO133. The form, and a guide entitled "Taxation of Costs in a Civil Case in the United States District Court for the District of Minnesota" for use by attorneys and legal staff are available on our website: <a href="http://www.mnd.uscourts.gov">www.mnd.uscourts.gov</a> .		
Your original documents are returned as <u>copies</u> of state court documents were submitted upon removal of the action to federal court.		
Your in forma pauperis application was approved. Please complete the enclosed Marshal Service Form(s) (one per defendant) and return to the office indicated at the top of this form. Service cannot be performed until these completed forms have been received by the clerk's office.		
<input checked="" type="checkbox"/>	OTHER:	The above entitled action is being transferred to your court pursuant to a Order of Judge James M Rosenbaum filed on 6/1/05. A certified copy of the order, a copy of the docket sheet and copy of the file are included. Please acknowledge receipt of this file by returning a date-stamped copy of this notice indicating the filing date and civil case number assigned in your court.

Deputy Clerk:

Janet Midtbo

CLOSED, PATENT, PHV

**U.S. District Court  
District of Minnesota (DMN)  
CIVIL DOCKET FOR CASE #: 0:04-cv-04486-JMR-FLN**

AGA Medical Corporation v. Nitinol  
Medical Technologies Inc et al  
Assigned to: Chief Judge James M  
Rosenbaum  
Referred to: Magistrate Judge Franklin L  
Noel  
Cause: 35:145 Patent Infringement

Date Filed: 10/13/2004  
Jury Demand: None  
Nature of Suit: 830 Patent  
Jurisdiction: Federal Question

**Plaintiff**

**AGA Medical Corporation** represented by **James T Nikolai**  
Nikolai & Mersereau  
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*ATTORNEY TO BE*

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V.

**Defendant**

**Nitinol Medical  
Technologies Inc**  
*doing business as*  
NMT Medical, Inc.

represented by **Charles H Sanders**  
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**David-NA L Cavanaugh**  
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*LEAD ATTORNEY*  
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**David-NA M Esrick**  
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*LEAD ATTORNEY*  
*ATTORNEY TO BE*  
*NOTICED*

**William-NA F Lee**  
Not Admitted  
*LEAD ATTORNEY*  
*ATTORNEY TO BE*  
*NOTICED*

**Defendant**

**Lloyd A Marks**

represented by **Cindy-NA D Vreeland**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE*  
*NOTICED*

**David-NA L Cavanaugh**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE*  
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**David-NA M Esrick**  
(See above for address)  
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*ATTORNEY TO BE*  
*NOTICED*

**Kate-NA Saxton**  
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*LEAD ATTORNEY*  
*ATTORNEY TO BE*  
*NOTICED*

**Stephen J Davidson**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE*  
*NOTICED*

**William-NA F Lee**  
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*LEAD ATTORNEY*  
*ATTORNEY TO BE*  
*NOTICED*

**Erin C Skold**  
 (See above for address)  
*ATTORNEY TO BE*  
*NOTICED*

Date Filed	#	Docket Text
10/13/2004	<u>1</u>	COMPLAINT against Lloyd A Marks, Nitinol Medical Technologies Inc , filed by AGA Medical Corporation. ASSIGNED TO CHIEF JUDGE JAMES M. ROSENBAUM PER PATENT LIST AND REFERRED TO MAGISTRATE JUDGE FRANKLIN L. NOEL, rcpt. no. 432926, (Filing fee \$ 150.) (Attachments: # <u>1</u> Exhibits# <u>2</u> Civil Cover Sheet)(DFL) (Entered: 10/14/2004)
10/13/2004		Summons Issued as to Lloyd A Marks, Nitinol Medical Technologies Inc. (DFL) (Entered: 10/14/2004)
01/27/2005	<u>2</u>	*** FILING ERROR - DOCUMENT TO BE RE-FILED*** Return of Service Executed for Summons and Complaint served on Jessina Hue on January 20, 2005, filed by AGA Medical Corporation. (Nikolai, Peter) Modified on 1/28/2005 (GJS). (Entered: 01/27/2005)
01/27/2005	<u>3</u>	SUMMONS Returned Executed by AGA Medical Corporation. Lloyd A Marks served on 1/20/2005, answer due 2/9/2005. (Nikolai, Peter) (Entered: 01/27/2005)

01/27/2005	<u>4</u>	RULE 7.1 DISCLOSURE STATEMENT of AGA Medical Corp. No parent corporation. (Attachments: # <u>1</u> Certificate of Service)(Nikolai, Peter) Modified text on 1/28/2005 (gjs). (Entered: 01/27/2005)
01/28/2005	<u>5</u>	SUMMONS Returned Executed by AGA Medical Corporation. Nitinol Medical Technologies Inc served on 1/20/2005, answer due 2/9/2005. (Nikolai, Peter) (Entered: 01/28/2005)
02/07/2005	<u>6</u>	STIPULATION to <i>Extend Time for Filing Answer to Complaint for Declaratory Relief</i> by Nitinol Medical Technologies Inc. (Attachments: # <u>1</u> )(Skold, Erin) (Entered: 02/07/2005)
02/07/2005	<u>7</u>	CERTIFICATE OF SERVICE by Nitinol Medical Technologies Inc of <i>Proposed Order to Extend Time for Filing Answer to Complaint</i> (Skold, Erin) (Entered: 02/07/2005)
02/08/2005	<u>8</u>	ORDER - GRANTING <u>6</u> Stipulation, and Defendants have until 3/9/05 to answer or otherwise respond to the complaint . Signed by Magistrate Judge Franklin L Noel on 2/8/05. (GJS) (Entered: 02/08/2005)
03/09/2005	<u>9</u>	MOTION to Transfer <i>Venue</i> by Nitinol Medical Technologies Inc, Lloyd A Marks. (Attachments: # <u>1</u> Certificate of Service)(Skold, Erin) (Entered: 03/09/2005)
03/09/2005	<u>10</u>	NOTICE of Hearing on Motion <u>9</u> MOTION to Transfer <i>Venue</i> : Motion Hearing set for 5/20/2005 11:00 AM in Minneapolis - Courtroom 15E before Chief Judge James M Rosenbaum. (Skold, Erin) (Entered: 03/09/2005)
03/09/2005	<u>11</u>	MEMORANDUM in Support re <u>9</u> MOTION to Transfer <i>Venue</i> filed by all defendants. (Skold, Erin) (Entered: 03/09/2005)
03/09/2005	<u>12</u>	Declaration of Kate Saxton in Support of <u>9</u> MOTION

		to Transfer <i>Venue</i> filed by all defendants. (Attachments: # <u>1</u> Exhibit Exhibit A# <u>2</u> Exhibit Exhibit B# <u>3</u> Exhibit Exhibits C-F# <u>4</u> Exhibit Exhibits G-K# <u>5</u> Exhibit Exhibits L-R)(Skold, Erin) (Entered: 03/09/2005)
03/09/2005	<u>13</u>	Declaration of Richard E. Davis in Support of <u>9</u> MOTION to Transfer <i>Venue</i> filed by all defendants. (Skold, Erin) (Entered: 03/09/2005)
03/09/2005	<u>14</u>	CERTIFICATE OF SERVICE by Nitinol Medical Technologies Inc, Lloyd A Marks re <u>12</u> Declaration in Support,, <u>13</u> Declaration in Support, <u>10</u> Notice of Hearing on Motion, <u>11</u> Memorandum in Support of Motion (Skold, Erin) (Entered: 03/09/2005)
03/09/2005	<u>15</u>	RULE 7.1 DISCLOSURE STATEMENT by Nitinol Medical Technologies Inc, Lloyd A Marks that there is no such corporation to report. (Attachments: # <u>1</u> Certificate of Service)(Skold, Erin) (Entered: 03/09/2005)
03/21/2005	<u>16</u>	AMENDED NOTICE of Hearing on Motion <u>9</u> MOTION to Transfer <i>Venue</i> : Motion Hearing set for 5/27/2005 11:00 AM in Minneapolis - Courtroom 15E before Chief Judge James M Rosenbaum. (Attachments: # <u>1</u> Certificate of Service)(Skold, Erin) (Entered: 03/21/2005)
05/03/2005	<u>17</u>	MOTION for Admission Pro Hac Vice for Robert Hillman by Nitinol Medical Technologies Inc. (Skold, Erin) (Entered: 05/03/2005)
05/03/2005	<u>18</u>	MOTION for Admission Pro Hac Vice for Charles Sanders by Nitinol Medical Technologies Inc. (Skold, Erin) (Entered: 05/03/2005)
05/03/2005	<u>19</u>	CERTIFICATE OF SERVICE by Nitinol Medical Technologies Inc re <u>18</u> MOTION for Admission Pro Hac Vice for Charles Sanders, <u>17</u> MOTION for Admission Pro Hac Vice for Robert Hillman (Skold,

		Erin) (Entered: 05/03/2005)
05/03/2005		TEXT ONLY ENTRY - ORDER granting <u>17</u> and <u>18</u> Motions for Admission Pro Hac Vice of attorneys Robert E Hillman and Charles H Sanders for Nitinol Medical Technologies Inc. Fees paid; receipt numbers 435001 and 435003.Approved by Clerk Richard D Sletten on 5/3/05. (MMC) (Entered: 05/05/2005)
05/06/2005	<u>20</u>	MEMORANDUM in Opposition re <u>9</u> MOTION to Transfer <i>Venue</i> filed by AGA Medical Corporation. (Nikolai, Peter) (Entered: 05/06/2005)
05/06/2005	<u>21</u>	DECLARATION of Jodi Raus in Opposition to <u>9</u> MOTION to Transfer <i>Venue</i> filed by AGA Medical Corporation. (Attachments: # <u>1</u> Exhibit A# <u>2</u> Exhibit B# <u>3</u> Exhibit C# <u>4</u> Exhibit D, Part 1# <u>5</u> Exhibit D, Part 2# <u>6</u> Exhibit D, Part 3# <u>7</u> Exhibit D, Part 4# <u>8</u> Exhibit E# <u>9</u> Exhibit F# <u>10</u> Exhibit G# <u>11</u> Exhibit H, Part 1# <u>12</u> Exhibit H, Part 2# <u>13</u> Exhibit H, Part 3# <u>14</u> Exhibit H, Part 4# <u>15</u> Exhibit H, Part 5# <u>16</u> Exhibit H, Part 6# <u>17</u> Exhibit I# <u>18</u> Exhibit J# <u>19</u> Exhibit K# <u>20</u> Exhibit L, Part 1# <u>21</u> Exhibit L, Part 2# <u>22</u> Exhibit L, Part 3# <u>23</u> Exhibit L, Part 4# <u>24</u> Exhibit M, Part 1# <u>25</u> Exhibit M, Part 2# <u>26</u> Exhibit M, Part 3# <u>27</u> Exhibit N# <u>28</u> Exhibit O, Part 1# <u>29</u> Exhibit O, Part 2# <u>30</u> Exhibit O, Part 3# <u>31</u> Exhibit O, Part 4# <u>32</u> Exhibit O, Part 5# <u>33</u> Exhibit O, Part 6# <u>34</u> Exhibit O, Part 7# <u>35</u> Exhibit O, Part 8# <u>36</u> Exhibit O, Part 9# <u>37</u> Exhibit P, Part 1# <u>38</u> Exhibit P, Part 2# <u>39</u> Exhibit P, Part 3# <u>40</u> Exhibit Q, Part 1# <u>41</u> Exhibit Q, Part 2# <u>42</u> Exhibit Q, Part 3# <u>43</u> Exhibit Q, Part 4# <u>44</u> Exhibit Q, Part 5# <u>45</u> Exhibit Q, Part 6# <u>46</u> Exhibit R# <u>47</u> Exhibit S# <u>48</u> Exhibit T, Part 1# <u>49</u> Exhibit T, Part 2# <u>50</u> Exhibit T, Part 3# <u>51</u> Exhibit T, Part 4# <u>52</u> Exhibit U# <u>53</u> Exhibit V# <u>54</u> Exhibit W# <u>55</u> Exhibit X# <u>56</u> Exhibit Y# <u>57</u> Exhibit Z# <u>58</u> Exhibit AA# <u>59</u> Exhibit BB# <u>60</u> Exhibit CC# <u>61</u> Exhibit DD# <u>62</u> Exhibit EE# <u>63</u> Exhibit FF, Part 1# <u>64</u> Exhibit FF, Part 2# <u>65</u> Exhibit FF, Part 3# <u>66</u>

		Exhibit FF, Part 4)(Nikolai, Peter) (Entered: 05/06/2005)
05/06/2005	<u>22</u>	DECLARATION of James T. Nikolai in Opposition to <u>9</u> MOTION to Transfer <i>Venue</i> filed by AGA Medical Corporation. (Attachments: # <u>1</u> Exhibit A# <u>2</u> Exhibit B# <u>3</u> Exhibit C# <u>4</u> Exhibit D# <u>5</u> Exhibit E)(Nikolai, Peter) (Entered: 05/06/2005)
05/06/2005	<u>23</u>	CERTIFICATE OF SERVICE by AGA Medical Corporation re <u>20</u> Memorandum in Opposition to Motion, <u>21</u> Declaration in Opposition, <u>22</u> Declaration in Opposition (Nikolai, Peter) . (Entered: 05/06/2005)
05/13/2005	<u>24</u>	REPLY to Response to Motion re <u>9</u> MOTION to Transfer <i>Venue</i> filed by all defendants. (Attachments: # <u>1</u> Certificate of Service on Plaintiff)(Skold, Erin) (Entered: 05/13/2005)
05/24/2005		****TEXT ONLY ENTRY**** AMENDED NOTICE of Hearing on Motion <u>9</u> MOTION to Transfer <i>Venue</i> : PLEASE NOTE CHANGE OF TIME ONLY Motion Hearing set for 5/27/2005 10:15 AM in Minneapolis - Courtroom 15E before Chief Judge James M Rosenbaum. (HLL) (Entered: 05/24/2005)
05/27/2005	<u>25</u>	Minute Entry for proceedings held before Chief Judge James M Rosenbaum : Motion Hearing held on 5/27/2005 re <u>9</u> MOTION to Transfer <i>Venue</i> filed by Nitinol Medical Technologies Inc and Lloyd A Marks. Motion granted. Order forthcoming. (Court Reporter Julie Rixe, Shaddix) (HLL) (Entered: 06/01/2005)
06/01/2005	<u>26</u>	ORDER granting <u>9</u> Motion to Transfer. Case is transferred to District of Massachusetts. Signed by Judge James M Rosenbaum on 6/1/2005. (bbt) (Entered: 06/01/2005)
08/25/2005	<u>27</u>	LETTER from Clerk's Office re: transfer to District of MA. Sent certified copy of the transfer order, copy of the docket sheet, and copy of the file to US District

Court, Clerk of Court, 1 Courthouse Way, Boston,  
MA 02210. (jam) (Entered: 08/25/2005)

PACER Service Center			
Transaction Receipt			
09/01/2005 11:33:26			
<b>PACER Login:</b>	us2510	<b>Client Code:</b>	
<b>Description:</b>	Docket Report	<b>Search Criteria:</b>	0:04-cv-04486-JMR-FLN
<b>Billable Pages:</b>	4	<b>Cost:</b>	0.32